STATE OP CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

STUDENT EMPLOYEES' ASSOCIATION, Charging Party,	)	Case No. SF-CE-183-H
v.	)	PERB Decision No. 531-H
REGENTS OF THE UNIVERSITY OF CALIFORNIA, Respondent.	)	October 29, 1985

Appearances; Evelyn Freitas for Student Employees' Association; Edward M. Opton, Jr., Attorney, for the Regents of the University of California.

Before Hesse, Chairperson; Morgenstern and Porter, Members.

DECISION

MORGENSTERN, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal of a dismissal of an unfair practice charge filed by the Student Employees' Association (SEA) against the Regents of the University of California (University or UC).

By letter dated March 30, 1984, the Board's regional attorney advised SEA that its unfair practice charge failed to allege sufficient facts to state a prima facie violation of the Higher Education Employer-Employee Relations Act (HEERA or Act).[1]

For the reasons set forth below, we affirm the dismissal of SEA's charges.

[1]HEERA is codified at Government Code section 3560 et seq.

FACTUAL SUMMARY

In his letter to SEA dismissing the unfair practice charge and in his warning letter, dated March 9, 1984, the Board's regional attorney presents a factual summary which accurately characterizes SEA's allegations. Those documents are attached hereto and, for purposes of reviewing the dismissal, are adopted by the Board as a summary of the facts as alleged.[2]

In sum, SEA charges that the University failed to meet and discuss a plan to reorganize the supervisory staff of the circulation section of the Moffitt Undergraduate Library. The plan made student employees ineligible for two library assistant classifications and, according to SEA's charge, thereby eliminated the past practice of promoting student employees to certain supervisory positions. SEA also claims that the University improperly revised an employee pamphlet and discriminated against employees active in SEA.

DISCUSSION

In the instant appeal, SEA takes issue with the regional attorney's conclusion that the charge is deficient because SEA failed to allege that it existed as an employee organization at the time UC enacted the reorganization plan. Although SEA admits in its appeal that the actions taken by the University were

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[2]For purposes of our review of the dismissal, the factual allegations are presumed to be true. San Juan Unified School District (1977) EERB Decision No. 12. (Prior to January 1, 1980, PERB was known as the Educational Employment Relations Board.)

adverse to another employee organization, the California State Employees' Association (CSEA), it further contends that, at the same time CSEA was dissolving its UC chapters, those employees affected by the University's actions organized SEA in order to represent the "aggrieved" employees.

According to the factual allegations in the charge and the documents attached thereto, all Moffitt Library circulation staff were advised that management was considering the reorganization by letter dated July 27, 1983 from Janice Koyama, Head, Moffitt Undergraduate Library. The file also contains a letter from Debra Harrington, employed in the University's labor relations department, to Evelyn Freitas, addressed to CSEA's Oakland office, referring to a request to discuss changes affecting student library employees. According to that document, the reorganization "was the subject of a three hour meet and discuss held on August 22, 1983, which CSEA requested and [Freitas] attended."

With regard to SEA's charge concerning the alleged changes to the orientation pamphlet, the proffered documents again disclose that UC notified CSEA of its intention to revise the pamphlet by letter dated September 9, 1983 and, according to a letter dated October 31, 1983 from Harrington to Nadia Tesluk, a CSEA representative, two sessions were held to discuss CSEA's concerns regarding the pamphlet.

Based on the allegations in the charge and the documents submitted in support thereof, it does not appear that SEA

existed as an employee organization at the time when UC took action to reorganize the library staff or revise its orientation pamphlet. Indeed, the only document attached to the charge which refers to SEA as an employee organization is dated January 9, 1984, and notifies the University of SEA's intention to "henceforth" act as the nonexclusive representative. Therefore, inasmuch as the alleged unilateral changes occurred well before SEA emerged as a representative of the student library employees, we find no prima facie case is alleged in SEA's charge.

In addition to the reasoning set forth above, we also base our affirmance of the dismissal on the recent Court of Appeal decision which concluded that HEERA does not require the University to notify and discuss matters within the scope of representation with nonexclusive representatives. The Regents of the University of California v. Public Employment Relations Board (1985) 168 Cal.App.3d 937. Thus, while at the time of the instant dismissal PERB case law entitled a nonexclusive representative to notice and an opportunity to discuss fundamental employee concerns with the employer, the decision of the Court of Appeal found to the contrary.

> The nonexclusive employee organization may continue to represent its members in many ways, but the initiative for representation must come from the employee. The employee has a right to be represented, but the organization does not have an independent right to represent. (Emphasis in original, at p. 945.)[3]

[3]HEERA section 3562(f) permits the Board to find student

In accordance with this decision, we find that SEA's charge fails to allege that the University neglected its statutory obligation.

We have also reviewed SEA's contention that the regional attorney improperly dismissed its allegations of improper retaliation. The reorganization plan, by its terms, caused student library employees to lose promotional opportunities. The charge, therefore, is not deficient in failing to allege that employees were affected by the restructured duties. Nevertheless, we are in agreement with the regional attorney's conclusion that the factual allegations are insufficient to demonstrate that the individual employees were treated disparately or that the reorganization plan was motivated by an effort to squelch the claimed union activism.

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employees whose employment is contingent on their status as students to be considered employees covered by the Act:

> . . . if the services they provide are unrelated to their educational objectives, or, that those educational objectives are subordinate to the services they perform and that coverage under . . . [HEERA] would further the purposes of . . . [the Act].

Thus, if employment of the student library employees is contingent upon their status as students, these employees enjoy HEERA coverage only if the conditions of 3562(f) are satisfied.

However, there has been no claim by UC that the students are not employees, nor has an evidentiary hearing been convened to establish the students' exclusion. Thus, in the instant case, we must consider the student library staff to be employees under the Act and affirm the dismissal for those reasons articulated above.

ORDER

Based on our review of the record, we AFFIRM the regional attorney's dismissal of the charge filed by the Student Employees' Association.

Chairperson Hesse joined in this Decision. Member Porter's concurrence begins on p. 7.

Porter, Member, concurring: I concur in affirming the dismissal of SEA's charges for the reasons set forth in the majority opinion. Additionally, I would elaborate on the student employee issue recognized but not resolved in footnote 3 at pp. 3-4, supra.

First, with respect to this Board's jurisdiction under HEERA and the standing and rights of "employees" under HEERA section 3562(f) of HEERA prescribes:

> (f) "Employee" or "higher education employee" means any employee of the Regents of the University of California, the Directors of Hastings College of the Law, or the Board of Trustees of the California State University, whose employment is principally within the State of California. However, managerial, and confidential employees shall be excluded from coverage under this chapter. The board may find student employees whose employment is contingent on their status as students are employees only if the services they provide are unrelated to their educational objectives, or, that those educational objectives are subordinate to the services they perform and that coverage under this chapter would further the purposes of this chapter.(Emphasis added.)

Accordingly, student employees of the University whose employment is contingent on their status as students are not "employees" within HEERA. For such student employees to achieve "employee" status under HEERA, this Board would first have to find with respect to such student employees that:

1. the services they provide are unrelated to their educational objectives, or, that those educational objectives are subordinate to the services they perform, and

2. that coverage under HEERA would further the purposes of HEERA. (Government Code section 3562(f).)

The documents submitted by SEA in support of its charges indicate that the student library employee positions in controversy were casual/restricted part-time positions, reserved for regularly-enrolled students at the University. In fact, the thrust of SEA's challenge concerned the University's proposed reorganization of some of these positions to full-time career positions no longer requiring student status and thus, in effect, making the positions no longer restricted or available to the registered students who normally occupied them.

Secondly, there is the history of the prior decisions and orders of this Board concerning student library employees at the University.

On September 4, 1981, in Unit Determination for Employees of the Regents of the University of California (1981) PERB Order No. Ad-114-H, this Board directed the chief administrative law judge to defer hearings on the exclusions of employees from representation units until after the issuance of recommendations as to the appropriate units for employees of the University.

On April 20, 1982, after the recommendations on appropriate units had been issued, this Board issued its decision and order in Unit Determination for Employees of the Regents of the University of California (1982) PERB Order No. Ad-114a-H, whereby it remanded the matter to the chief administrative law

judge for hearings on:

> a. The appropriate unit placement of residents and interns; and
>
> b. exclusionary issues, including questions of managerial, supervisory, confidential or casual status or status as a student as defined in section 3562(f), except that no evidence is to be taken on the employee-student status of residents and interns. (Ad-114a-H, p. 2, emphasis added.)

On August 4, 1982, this Board issued its decision and order in Unit Determination for Employees of the Regents of the University of California (1982) PERB Order No. Ad-114b-H, wherein it ordered at p. 2: ". . . that the student exclusion stipulation dated July 7, 1982, be accepted [by the Board]" This student exclusion stipulation provided in pertinent part:

> The undersigned parties[1] hereby stipulate that student employees whose employment with the University of California is contingent upon their status as students of the University are to be excluded from the bargaining units recommended by the Administrative Law Judges or any units found appropriate by PERB in this proceeding.
>
> The student employees in staff titles who are to be excluded pursuant to this stipulation are employed in many different title codes which are included in the recommended units and their employment status is designated as "casual-restricted" or "casual" as defined in the Staff Personnel Manual of the University. It is the intent of the parties that this stipulation shall not be applied so as to

[1]The parties to the stipulation were the University of California and various employee organizations including CSEA, the predecessor organization to SEA representing student library employees.

> exclude any student employees whose employment with the University is not contingent upon their status as students of the University, and shall also not be applied to exclude any students who are 'career' employees as defined in the Staff Personnel Manual of the University.
>
> . . . . . .
>
> The parties enter into this stipulation to exclude student employees from the recommended bargaining units on the basis that such employees do not share a community of interest with other employees who are subject to the petitions now on file. Specifically, the employment of such individuals is contingent upon their status as students of the University; their appointment for employment is short-term, usually no more than 20 hours per week, arranged around their class schedule and not longer than a calender year; their placement as employees of the University is for the purpose of providing financial assistance during their enrollment at the University; and, said students do not receive regular University benefits.
>
> . . . . . .
>
> Attached hereto and incorporated by reference in this stipulation is a list of title codes in which student employees are employed. This list was prepared by the University and was current as of March 1982. The list is solely intended to be for the purpose of illustrating the approximate number of individuals and the classifications affected by this stipulation. (Emphasis added.)
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> . . . . . .

The referred to list, titled "SYSTEMWIDE CLERICAL UNIT Student Exclusions" included:

Title		Number on Each Campus									
Code	Job Title	B	SF	D	SC	SB	R	LA	SD	I	Total
	. . . .										
6732	Bibliographer II	61	2					140	1		204
6733	Bibliographer I	47		9			6	51	2		115
6759	Library Assistant IV	1				1		5			7
6760	Library Assistant III			1		3		5			9
6761	Library Assistant II	12		4	1	11	1	25	1	2	57
6762	Library Assistant I	124		5		14	3	40	14	1	201

And in Unit Determination for Service Employees of the University of California (1983) PERB Decision No. 245c-H, a case dealing with several job classifications in the systemwide service employees unit, this Board set forth:

> UC alleges that many of these classifications are designed for use in part or exclusively by registered students of the university. Where the employment of students in the classifications listed above is contingent upon their status as students of the university, they have been excluded by stipulation. See Unit Determination for Employees of the Regents of the University of California (8/4/82) PERB Order No, Ad-114b-H.

Accordingly, student library employees whose employment is contingent on their status as registered students at the University would not be "employees" under HEERA and thus not within the jurisdiction of this Board. Whether any such student library employees could achieve "employee" status under

HEERA through the required Board finding and determination under section 3562(f), awaits a possible future proceeding before this Board.

PUBLIC **EMPLOYMENT RELATIONS BOARD**
San Francisco Regional Office
177 Post Street, 9th Floor
San Francisco, California 94108
(415) 557-1350

March 30, 1984

Evelyn Freitas
Student Employees' Assn.
2124 Kittredge Street, #215
Berkeley, CA 94704

Edward M. Opton, Jr.
Office of the General Counsel
590 University Hall
2199 Addison Street
Berkeley, CA 94720

Re: REFUSAL TO ISSUE COMPLAINT AND DISMISSAL OF UNFAIR PRACTICE CHARGE
Student Employees' Association v. Regents of the University of California
Charge No. SF-CE-183-H

Dear Parties:

Pursuant to Public Employment Relations Board (PERB) Regulation section 32620(5), a complaint will not be issued in the above-referenced case and the pending charge is hereby dismissed because it fails to allege facts sufficient to state a prima facie violation of the Higher Education Employer-Employee Relations Act (HEERA).[1] **The reasoning which underlies this decision follows.**

On March 9, 1984, the regional attorney wrote to charging party pointing out the deficiencies of the charge as written and soliciting an amendment or withdrawal by March 16, 1984 (letter attached and incorporated by reference). The letter warned that if no such response was received by the deadline, the allegations would be dismissed and no complaint would be issued. On March 19, 1984 charging party filed a first amended charge in the above-referenced case.

Charging party has failed to allege a prima facie violation of HEERA section 3571(a) and/or (b). The allegations of the first amended charge are not significantly different from those contained in the original unfair practice charge.

First, Student Employees' Association (SEA) alleges again that the **University** acted unilaterally **on two separate** occasions. The charging party alleges that the University failed to meet and discuss in good faith either the effects **of**

[1]References **to** the HEERA are to Government Code sections 3560 et seq. PERB Regulations are codified at California Administrative Code, Title 8.

its decision to reorganize the circulation section of the Moffitt Library or its alleged decision to change the terms and conditions of student employment in the library. The defects of the original charge have not been cured by the amendment. The SEA does not allege whether it even existed as an organization at the time of the alleged changes and, if it did exist, that the University knew or should have known of its existence. The SEA does not allege whether it even existed as an organization at the time of the alleged charges and, if it did exist, that the University knew or should have known of its existence. In essence, SEA objects to conduct which allegedly occurred during meet and discuss sessions held between the University and the California State Employees Association (CSEA). Yet, SEA fails to justify its attempt to "stand in the shoes" of CSEA. That the CSEA representatives have since become representatives of SEA does not establish a right on behalf of SEA to inherit CSEA's cause of action. Because charging party has no standing to raise these claims, the allegations are dismissed and no complaint will issue.

Second, charging party alleges again that the University's reorganization plan, announced in its final form on September 6, 1983, was undertaken for the purpose of retaliating against CSEA activists. However, the charge fails to set forth the names of such employees, the activities in which they engaged, whether the employer knew or should have known of their activist status, what proportion of the student supervisors were known to be activists, whether non-activist student supervisors (if any) have been treated differently, and finally, whether such students have been denied permanent career and staff positions. Without these additional allegations, this aspect of the charge is insufficient to state a prima facie violation of section 3571 (a) and/or (b). The allegations contained in the charge are dismissed and no complaint will issue.

Charging party alleges that Ms. June DeJong, a CSEA activist, was denied the right established by past practice to be employed during the academic quarter following her graduation. Yet, charging party also alleges that Ms. DeJong graduated in the spring of 1983 and requested that she be allowed to work a different quarter: the quarter which followed the quarter subsequent to her graduation. Charging party has also alleged that a non-union member was permitted to work the academic quarter following graduation, as well as the subsequent quarter. The allegations of the charge did not support a finding that the past practice, as described by charging party, was not followed in this instance.

Charging party alleges that Veronica Stanford, president of SEA, was denied the opportunity to work more than half-time. Additionally, the employer is alleged to have forbidden Ms. Stanford to clock-in on February 20, 1984. Charging party alleges:

> In taking this action, the University hoped to reduce Stanford's presence in the shop and subsequently her contact with other employees, further hindering efforts to organize the new association.

The charge does not contain allegations suggesting that a discriminatory motivation underlay the University's refusal to allow Ms. Stanford to work more than one-half time. Novato Unified School District (9/30/82) PERB Decision No. 210; Regents of the University of California (5/16/83) PERB Decision No. 308-H. The allegation that treatment of Ms. Stanford was contrary to past practice is an indication that the University may have failed to follow its own rule. Novato, supra. However, there is no allegation that the University knew of her union activism, that it offered an illogical or unreasonable explanation for its conduct, that she suffered disparate treatment, or that there were other indications of anti-union animus. (See Moreland Elementary School District (7/27/82) PERB Decision No. 227.) Accordingly, the allegations are insufficient to set forth a violation of HEERA. They are hereby dismissed and no complaint shall issue thereon.

Pursuant to Public Employment Relations Board regulation section 32635 (California Administrative Code, title 8, part III), you may appeal the refusal to issue a complaint (dismissal) to the Board itself.

Right to Appeal

You may obtain a review of this dismissal of the charge by filing an appeal to the Board itself within twenty (20) calendar days after service of this Notice (section 32635(a)). To be timely filed, the original and five (5) copies of such appeal must be actually received by the Board itself before the close of business (5:00 p.m.) on April 19, 1984, or sent by telegraph or certified United States mail postmarked not later than April 19, 1984 (section 32135). The Board's address is:

Public Employment Relations Board
1031 18th Street
Sacramento, CA 95814

If you file a timely appeal, of the refusal to issue a complaint, any other party may file with the Board an original and five (5) copies of a statement in opposition within twenty (20) calendar days following the date of service of the appeal (section 32635(b)).

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding, and a "proof of service" must accompany the document filed with the Board itself (see section 32140 for the required contents and a sample form). The document will be considered properly "served" when personally delivered or deposited in the first-class mail postage paid and properly addressed.

Extension of Time

A request for an extension of time in which to file a document with the Board itself must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three (3) calendar days before the expiration of the time required for filing the document. The request must indicate good cause for and, if known, the position of each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party (section 32132).

Final Date

If no appeal is filed within the specified time limits, the dismissal will become final when the time limits have expired.

Very truly yours,

DENNIS M. SULLIVAN
General Counsel

By _____
PETER HABERFIELD
Regional Attorney

cc: General Counsel

STATE OF CALIFORNIA GEORGE DEUKMEJIAN, Governor

PUBLIC EMPLOYMENT RELATIONS OARD
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March 9, 1984

Evelyn Freitas
Student Employees' Assn.
2124 Kittredge Street, #215
Berkeley, CA 94704

Re: Student Employees' Association v. Regents of the University of California
Charge No. SF-CE-183-H

Dear Ms. Freitas:

On January 30, 1984 the Student Employees' Association (Association) filed an unfair practice charge against the Regents of the University of California (University) alleging violation of HEERA section 3571, subdivisions (a), (b) and (c). The charge appears to allege that the University, in two respects, instituted unilateral policy changes without prior meet-and-discuss sessions between it and the Association and, additionally, that the University conduct interfered with, and retaliated against, the exercise of HEERA rights by the Association and its members. These allegations are discussed in more detail below.

First, charging party takes issue with the University's plan, announced in its final form on September 6, 1983, to reorganize the circulation section of the Moffitt undergraduate library. Charging party alleges that the University refused to meet with it and discuss the changes and implementation of the reorganization plan and that this refusal was manifested initially by the University's failure to respond for over a one-month period to Association requests for information and clarification, and then by its refusal to send the eventual response to an address at which it was known the representative was able to receive it.

Second, the Association has alleged that the University announced in September 1983 its planned change of policies governing the employment conditions of students employed in the library and that the University unlawfully refused to convene a meet-and-discuss session concerning these changes. The Association describes the circumstances as follows: Evelyn Freitas, at that time a representative of the now-defunct California State Employees' Association (CSEA), requested to meet and discuss concerning these proposed changes on July 28, 1983. The University delayed meeting for over one month, but ultimately had *a* meeting, held on October 13, 1983, for the purpose of discussing the changes with CSEA. Two of the three University representatives left the meeting prior to its conclusion and before arranging for the continuation of the discussion. The University refused to respond on October 18, 1S83 to charging party's request that further meetings *be* held on the issue. The University accompanied notification to the Association of its refusal with a request that charging party submit further questions in

writing. Communication between the parties was frustrated further when the University sent letters which were addressed to the employee representatives at an inconvenient address.

Charging party appears to allege that the University's plan to reorganize the circulation section of the Moffitt library constitutes an independent violation of subdivisions (a) and (b) of HEERA section 3571 because it amounts to interference with the exercise of HEERA rights by both the Association and its members, as well as discrimination and retaliation against the Association and its members for exercising HEERA rights. The stated purpose of the new policy, according to the Association, was to eliminate student employees from supervisory positions and to replace them with career staff. That rationale, according to the Association, is a pretext for a change designed to restrict employees with pro-union sympathies from engaging in further organizing efforts. Charging party has alleged that the discriminatory motivation of the University is evident from the fact that it deliberately created the high turnover and attrition which it used to justify the reorganization.

Governing Legal Principles and Application to Allegations of the Charge.

1. Elements of a unilateral change violation; Charging party has alleged that the University unlawfully altered established practice regarding terms and conditions of employment. EERB has held that an unlawful unilateral action is a per se violation of section 3571(b) where it is alleged and later proven that: (1) charging party is a non-exclusive representative of unit employees; (2) the employer has adopted a policy affecting a fundamental aspect of the employer-employee relationship; (3) the policy adopted by the employer is not in accordance with established policy; (4) the employer policy was adopted without giving the non-exclusive representative notice and reasonable opportunity to request a meet and discuss session with the employer; or, (5) if a meet and discuss session did occur, the subject was not discussed in good faith by the employer prior to implementation of the change. University of California (11/23/83) PERB Decision No. 359-H; State of California (Professional Engineers in California Government (PEGG) (3/19/80) PERB Decision No. 118-S; California State University, Sacramento (4/30/82) PERB Decision No. 211-H; Regents of the University of California (Lawrence Livermore National Laboratory) (4/30/82) PERB Decision No. 212-H; California State University, Hayward (8/10/82) PERB Decision No. 231--H; State of California, Department of Corrections (5/5/80) PERB Decision No. 127-S; State of California, Franchise Tax Board (7/29/82) PERB Decision No. 229-S.

The charge fails to set forth a prima facie violation of section 3571(b), and derivatively subdivision (a), for several reasons. First, the charge fails to allege that the Association was a non-exclusive representative at the time the University undertook to make the alleged changes in policy, and that its representational status had been made known to the University. My investigation revealed that on the dates of the alleged unilateral changes, the Association was not a nonexclusive representative of unit employees. At the time, the CSEA represented employees in the workplace and, in fact,

engaged in a number of meet and discuss sessions with the University concerning both alleged unilateral changes. Consequently, the Association has no standing to complain either that the University refused to meet and discuss the issues with it or that it engaged in conduct which fell short of the meet and discuss standard in its interaction with CSEA. It is insufficient that the individuals who now bring this charge had participated as CSEA representatives during those meet and discuss sessions.

Second, the charge does not contain a clear and concise statement of the facts and conduct alleged to constitute either the established policy or the "changed" policy. (See EERB Rule 32615(a)(5).)

Third, the charge does not contain an allegation that the change of former policy affected a fundamental aspect of the employer-employee relationship. Reorganization of the supervisorial system incidentally is likely to be a subject within management's exclusive prerogative. Alum Rock Union Elementary School District (6/27/83) EERB Decision No. 322.

Fourth, with respect to the alleged change in working conditions for student library personnel, this aspect of the charge does not appear- "ripe" for challenge as an unfair practice. No change is alleged to have been implemented. At this stage it has been merely proposed. There are no allegations that the University refused to respond to a timely request by the Association to meet and discuss this issue.

2. Elements of discrimination and retaliation charge; FERB has held that a prima facie statement of unlawful discrimination and retaliation requires allegations that: (1) the employer took adverse action against a certain employee; (2) the employee engaged in activity protected by HEERA; and, (3) the employer would not have taken the adverse action against the particular employee "but for" her/his having engaged in the protected activity. Novato Unified School District (4/30/82) PERB Decision No. 210; Regents of the University of California (5/16/83) FERB Decision No. 308-H; Regents of the University of California (6/10/83) FERB Decision No. 319-H..

The nexus between the employer conduct and the protected activity is established by alleging unlawful motivation on the part of the employer. In Placerville Union School District (2/14/84) FSR3 Decision No. 377, PERB stated that where direct evidence of unlawful motivation is lacking, it has generally looked to such factors as timing (North Sacramento School District (12/20/82) PERB Decision No. 264); Coast Community College District (10/15/82} PERB Decision No. 251), disparate treatment (San Joaquin Delta Community College District (11/30/82) PERB Decision No. 251; San Leandro Unified School District (2/24/83") PERB Decision No. 288), departure from past procedures (Novato, supra) and inconsistent justifications (State of California (Department of Parks and Recreation) (7/29/83) PERB Decision No. 328-S) which, under certain circumstances, may support an inference of unlawful motivation. Also see University of California (5/16/83) PERB Decision No. 308-H.

The charge, as presently set forth, fails to allege any of the above-cited indices of unlawful motivation. As to the allegation that the University restructured supervisorial responsibilities, there is no indication that an employee or an employee organization was affected by this change. No employee is alleged to have lost employment when the University changed casual restricted positions to permanent career staff positions. There is no allegation that students were unable to apply for the new positions.

If you feel that there are facts which would correct the deficiencies explained above, please amend the charge accordingly. The amended charge should be prepared on a standard FERB unfair practice charge form clearly labeled First Amended Charge, contain all the facts and allegations you wish to make, and be signed under penalty of perjury by the charging party. The amended charge must be served on the respondent and the original proof of service must be filed with EERB. If I do not receive an amended charge or withdrawal from you before March 16, 1984, I shall dismiss your charge. If you have any questions on how to proceed, please call me at (415) 557-1350.

Sincerely yours.

Peter Haberfeld
Regional Attorney